

### **REMARKS**

The present Amendment amends claims 1, 2 and 7, leaves claims 3-6, 8-10 19 and 21 unchanged and cancels claims 12-18 and 20. Therefore, the present application has pending claims 1-10, 19 and 21.

Claim 7 stands objected to under 37 CFR §1.75(c) as being in improper form being that a multiple dependent claim cannot depend from any other multiple dependent claim. Amendments were made to claim 7 in the March 28, 2005 Amendment so as to eliminate claim 7 from depending from another multiple dependent claim. However, it appears that the Examiner did not recognize such amendment. Therefore, the present Amendment reflects the amendment to claim 7 as set forth in the March 28, 2005 Amendment wherein the dependency from another multiple dependent claim is eliminated. Accordingly, this objection has been overcome and should be withdrawn.

Claim 2 stands rejected under 35 USC §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regards as their invention. Amendments were made to claim 2 to bring it into conformity with the requirements of 35 USC §112, second paragraph. Therefore, Applicants submit that this rejection is overcome and should be withdrawn.

Specifically, amendments were made to claim 2 to overcome the objections noted by the Examiner in paragraph 3 of the Office Action.

Claims 1-3 and 20 stand rejected under 35 USC §102(b) as being anticipated by Sicher (U.S. Patent No. 5,570,411); claims 12 and 13 stand rejected under 35

USC §102(e) as being anticipated by Wyrwas (U.S. Patent No. 6,771,627); claim 4 stands rejected under 35 USC §103(a) as being unpatentable over Sicher in view of Wyrwas; claims 5, 6 and 8 stand rejected under 35 USC §103(a) as being unpatentable over Sicher in view of Wyrwas and further in view of Linnewah (U.S. Patent No. 5,862,485); claim 9 stands rejected under 35 USC §103(a) as being unpatentable over Sicher in view of Hughes (U.S. Patent No. 6,704,577); claim 10 stands rejected under 35 USC §103(a) as being unpatentable over Sicher in view of Mannett (U.S. Patent No. 6,816,500); claims 14-16 and 18 stand rejected under 35 USC §103(a) as being unpatentable over Sicher in view of Wyrwas in further in view of Linnewah; and claim 17 stands rejected under 35 USC §103(a) as being unpatentable over Sicher in view of Wyrwas in view of Linnewah and further in view of Hughes. As indicated above, claims 12-18 and 20 were canceled. Therefore, these rejections with respect to claims 12-18 and 20 are rendered moot. These rejections with respect to the remaining claims 1-10 are traversed for the following reasons. Applicants submit that the features of the present invention as now more clearly recited in claims 1-10 are not taught or suggested by Sicher, Wyrwas, Linnewah, Hughes and Mannett are not taught or suggested by any of the references of record whether taken individually or in combination with each other. Therefore, Applicants respectfully request the Examiner to reconsider and withdraw the above described rejections.

Amendments were made to the claims in order to more clearly recite that the present invention is directed to a base station for assigning a radio communication resource by scheduling time slots to mobile stations for data communication.

According to the present invention the base station includes transmission and reception means for conducting communication with mobile stations, and control means for assigning a time slot preferentially to a first mobile station that needs to communicate with the base station for a first application that is given a higher priority over a second mobile station that needs to communicate with the base station for a second application that is given a lower priority lower than the higher priority given the first application. Thus, according to the present invention, if there is no free time slot in a next frame, then the control means reassigns a time slot already assigned to the second mobile station to the first mobile station and data for the second mobile station is registered in a database for storing waiting data which awaits their turn for transmission.

Thus, the present invention is directed to data transmission using time slots such that one transmission, from a second mobile station, can be interrupted in favor of another transmission, from a first mobile station, wherein the interrupted transmission can be registered in a database so that such transmission can be resumed at a later time. According to the present invention such resuming of transmission at a later time can only be tolerated for data transmissions not voice transmissions since such a delay would reduce the quality of the voice transmission.

The above described features of the present invention now more clearly recited in the claims are not taught or suggested by any of the references of record whether taken individually or in combination with each other. These features of the present invention now more clearly recited in the claims clarify features which were shown as not being taught or suggested by any of the references of record by the

March 28, 2005 Amendment. The Remarks of the March 28, 2005 Amendment are incorporated herein by reference.

The above described features of the present invention now more clearly recited in the claims are not taught or suggested by, for example, Sicher. Sicher is concerned with voice communication such as a call to a police or fire department. However, Sicher does is not concerned with nor does it mention at any point that time slots being used by two different mobile stations are managed such that one mobile station has higher priority to use the time slots relative to another mobile station and that the lower priority data is sent later. Such features are not taught or suggested by Sicher.

Sicher merely provides for voice communications and as such cannot allow for situations where the voice communications are interrupted and then resumed at a later time as in the present invention. As per Sicher, even if a call has a higher priority, the maximum advantage to the mobile station is a place in queue by pushing out lower rank calls which must then wait for a voice channel to be vacated. These higher priority calls as per Sicher are calls to police or fire departments or other emergency response departments. Such disclosure by Sicher could not accommodate the features of the present invention wherein a lower priority transmission in time slots is interrupted to permit a higher priority transmission and data of the lower priority transmission are stored in a database so that such transmissions can be resumed in time slots occurring at a later point in time. Such features are clearly not taught or suggested by Sicher.

Thus, Sicher fails to teach or suggest control means for assigning a time slot preferentially to a first mobile station that needs to communicate with the base station for a first application that is given a higher priority over a second mobile station that needs to communicate with the base station for a first application that is given a higher priority over a second mobile station that needs to communicate with the base station for a second application that is given a lower priority lower than a higher priority give the first application as recited in the claims.

Further, Sicher fails to teach or suggest that if there is no free time slot in a next frame, the control means reassigns a time slot already assign to the second mobile station to the first mobile station and data for the second mobile station is registered in a database for storing waiting data which awaits their turn for transmission as recited in the claims.

Therefore, the features of the present invention as now more clearly recited in claims 1-3 are not taught or suggested by Sicher whether taken individually or in combination with any of the other references of record. Accordingly, reconsideration and withdrawal of the 35 USC §102(b) rejection of claims 1-3 as being anticipated by Sicher is respectfully requested.

Since claims 12-18 and 20 were canceled as indicated above, the various rejections of claims 12-18 are rendered moot. Accordingly, reconsideration and withdrawal of the 35 USC §102(e) rejection of claims 12 and 13 as being anticipated by Wyrwas, the 35 USC §103(a) rejection of claims 14-16 and 18 as being unpatentable over Sicher in view of Wyrwas and Linnewah and the 35 USC §103(a)

rejection of claim 17 as being unpatentable over Sicher in view of Wyrwas, in view of Linnewah, and further in view of Hughes is respectfully requested.

It should be noted that the cancellation of claims 12-18 and 20 was not intended nor should it be considered as an agreement on Applicants part that the features recited in claims 12-18 and 20 are taught or suggested by any of the references of record whether taken individually or in combination with each other. The cancellation of claims 12-18 and 20 was simply intended to expedite prosecution of the present application.

The above noted deficiencies of Sicher are not supplied by any of the other references of record. Thus, combining Sicher with one or more of Wyrwas, Linnewah, Hughes and Mannett still fails to teach or suggest the features of the present invention as now more clearly recited in the claims. Accordingly, reconsideration and withdrawal of the various rejections based upon these references is respectfully requested.

Therefore, reconsideration and withdrawal of the 35 USC §103(a) rejection of claim 4 as being unpatentable over Sicher in view of Wyrwas, the 35 USC §103(a) rejection of claims 2, 6 and 8 as being unpatentable over Sicher in view of Wyrwas and further in view of Linnewah, the 35 USC §103(a) rejection of claim 9 as being unpatentable over Sicher in view of Hughes, and the 35 USC §103(a) of claim 10 as being unpatentable over Sicher in view of Mannett is respectfully requested.

The remaining references of record have been studied. Applicants submit that they do not supply any of the deficiencies noted above with respect to the references utilized in the rejection of claims 1-18.

In view of the foregoing amendments and remarks, applicants submit that claims 1-10, 19 and 21 are in condition for allowance. Accordingly, early allowance of claims 1-10, 19 and 21 is respectfully requested.

To the extent necessary, the applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to the deposit account of MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C., Deposit Account No. 50-1417 (501.39856X00).

Respectfully submitted,

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.

A handwritten signature in black ink, appearing to read 'Carl I. Brundidge', is written over a horizontal line.

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